

## REMARKS

### Status of the Claims

#### *Pending claims*

Claims 33 to 37, 114, 115 and 132 to 192 are pending (claims 113 to 131 were added in a preliminary amendment, and, claim 132 to 192 were added in the response to the restriction requirement).

### Support for the Claim Amendments

The specification sets forth an extensive description of the invention in the new and amended claims. Support for claims directed to methods wherein the polymer is formed by self-assembly of monomers with or without a template molecule can be found, inter alia, on page 14, lines 9 to 10.

### The Group Restriction Requirement

In the restriction requirement mailed September 30, 2003, the Patent Office alleged that the pending claims of the application are directed to twenty-three (23) separate and distinct inventions under 35 U.S.C. §121.

### The Group Election

In the response to the group restriction requirement (mailed October 29, 2003), Applicants elected with traverse Group III, claims 31 to 37, 114 and 115, drawn to a method of producing a polypeptide polymer (Applicants response mailed October 29, 2003, inadvertently listed Group III as including claims 33 to 37, 114 and 115).

### The Sequence Restriction Requirement

In the restriction requirement mailed September 30, 2003, the Patent Office further alleged that each restriction group reads on a plurality of independent and/or patentably distinct sequences, SEQ ID NO:1, SEQ ID NO:3, SEQ ID NO:5, SEQ ID NO:7, or SEQ ID NO:9, for polynucleotides, and SEQ ID NO:2, SEQ ID NO:4, SEQ ID NO:6, SEQ ID NO:8, or SEQ ID NO:10 for polypeptides.

### The Sequence Election

In response to the sequence restriction requirement, Applicants elected with traverse SEQ ID NO:2 (Applicants' response mailed October 29, 2003, had a typo inadvertently listing SEQ ID NO:1, encoding SEQ ID NO:2, as the elected specie).

### The Species Restriction Requirement

In the Communication of January 15, 2004, the Patent Office alleged that in view of the amendment to claim 31, the following election of species is required: (i) polymerizing the monomeric polypeptides through a self-assembly process, or, (ii) polymerizing the monomeric polypeptides in the presence of a template molecule.

### The Species Election

In response to the species restriction requirement, Applicants elect (i) polymerizing the monomeric polypeptides through a self-assembly process.

When the elected species is held to be allowable, Applicants are entitled to consideration (examination) of additional species; if all species are held to be allowable, a generic claim should be allowed (MPEP §809.02(c); pg 800-50, 8<sup>th</sup> Edition, August 2001).

### Reasons to reconsider and withdraw the group and sequence restriction requirement

In the response mailed October 29, 2003, Applicants traversed the restriction requirement and respectfully requested the restriction be withdrawn. Applicants set forth distinct and specific errors in the restriction requirement and reasons for the Patent Office to reconsider and withdraw, in part, the restriction requirement. Accordingly, Applicants have preserved their right to petition the restriction to the Group Director under 37 CFR §1.144; see also MPEP §818.03(c); pg 800-60, 8<sup>th</sup> Edition, August 2001. Applicants will defer submission of the petition (which can be deferred until allowance of the claims).

Issues raised in the Communication

In the Communication of January 15, 2004, the Patent Office noted that claim 33 was not further limiting claim 31. The instant amendment addresses this issue.

Applicants thank the Examiner for noting the typographical error in their response of October 29, 2003. The instant response clarifies that the elected specie is a polypeptide having a sequence as set forth in SEQ ID NO:2.

CONCLUSION

It is believed that the all claims pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

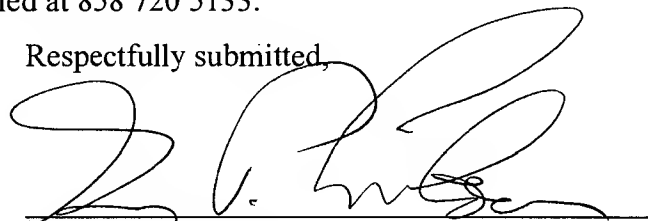
If an additional fee is required, the Commissioner is authorized to deduct such fee from the undersigned's Deposit Account No. 03-1952. Please credit any overpayment to the above-noted Deposit Account.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858 720 5133.

Respectfully submitted,

Date:

*Feb. 13, 2004*



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